S.B. Civil Writ Petition No.3191/2002
Smt. Manbhar Devi Agarwal Vs. The State of Raj. & Ors.

20.02.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri H.S. Khandelwal for petitioner.
Shri B.S. Chhaba, Dy. GA
Shri P.N. Paliwal for Mr. B.K. Sharma for respondent no.3.

The petitioner has challenged the order dated 26.3.2002 whereby the Mining Engineer, Jaipur has required the Nagam Nigam, Jaipur to deduct the amount of royalty from the running bills of their contractors in regard to quantity of mineral used by them in their construction works. According to the petitioner, the minerals having already been earlier subjected to levy of royalty, cannot be again made subject matter of realising royalty.

Shri B.S. Chhaba, the learned Dy. Government Advocate has invited my attention to a judgment passed by a co-ordinate bench of this Court in R.S. Shekhawat & Ors. Vs. State, S.B. Civil Writ Petition No.359/98 dated 28.2.2001 by which this Court while deciding a bunch of 14 writ petitions held as under:-

> “In order to make the positive crystal clear what is sought to be emphasized is that the Department of Mining should examine the claim of the petitioners as to whether deductions from the running bills made by the Public Works Department and other Departments were excess in nature or not so as to determine whether any amount is fit to be refunded to them or whether the amount due to be refunded can be adjusted in future. The petitioners for this purpose, are at liberty to approach the Department of Mines with the relevant records for

> assessment and explain the position whether the claim for refund or adjustment is sustainable or not. In view of this direction, it is expected of the Department of Mines that in case petitioners approach them, the matter would be assessed and decided expeditiously."

Having perused the aforesaid judgment and considering the rival arguments of the learned counsel for the parties, I am not persuaded to take any other view of the matter than the one taken by the Co-ordinate Bench in the aforesaid judgment.

The writ petition is accordingly disposed of in terms of the aforesaid directions. The observations made and directions given in the aforesaid judgment shall also apply to the present case.

RS/- **(Mohammad Rafiq),J.**